

Name: Karl Grant LoseeAddress: P.O. Box 250 Draper Utah 84020 FILED
Telephone: _____ U.S. DISTRICT COURT

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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
Central BY Division
DEPUTY CLERKKarl Grant Losee

(Full Name)

PLAINTIFF

VS.

Richard Garden, Sidney Roberts,
Kennon Tubbs, Tom Patterson,
Jon H. Huntsman Jr., Jack Ford,
1-50 John and Jane Does

DEFENDANTS

CIVIL RIGHTS COMPLAINT

(42 U.S.C §1983, §1985)

Case: 2:07cv00911

Assigned To : Benson, Dee

Assign. Date : 11/21/2007

Description: Losee v. Garden et al

A. JURISDICTION

1. Jurisdiction is proper in this court according to:

- a. 42 U.S.C. §1983
- b. 42 U.S.C. §1985
- c. Other (Please Specify) _____

2. NAME OF PLAINTIFF Karl Grant Losee
IS A CITIZEN OF THE STATE OF UtahPRESENT MAILING ADDRESS: P.O. Box 250 Draper Utah 840203. NAME OF FIRST DEFENDANT Richard Garden

IS A CITIZEN OF Draper Utah
(City and State)

IS EMPLOYED AS Director medical services at Utah State Prison
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES NO If your answer is "YES" briefly explain.

Defendant Garden is personally and professionally responsible for the supervision of medical staff and facilities and medical care of inmates.

4. NAME OF SECOND DEFENDANT Sidney Roberts
(If applicable)

IS A CITIZEN OF Draper Utah
(City and State)

IS EMPLOYED AS Medical Doctor at Utah State Prison
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES NO If your answer is "YES" briefly explain.

Defendant Dr. Roberts is responsible for providing medical diagnosis, care and treatment for inmates serious medical conditions and needs.

5. NAME OF THIRD DEFENDANT Kennon Tubbs
(If applicable)

IS A CITIZEN OF Draper Utah
(City and State)

IS EMPLOYED AS Medical Doctor at Utah State Prison
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES NO If your answer is "YES" briefly explain.

Defendant Doctor Tabbs is responsible for providing medical diagnosis, care and treatment for inmates serious medical conditions and needs

6. NAME OF FOURTH DEFENDANT Tom Patterson
(If applicable)

IS A CITIZEN OF Draper Utah
(city and State)

IS EMPLOYED AS Executive Director of services at Utah State Prison
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES NO If your answer is "YES" briefly explain.

Defendant Patterson is responsible for all prison operations including the safety and well being of inmates.

(Use additional sheets of paper if necessary.)

B. NATURE OF CASE

1. Why are you bringing this case to court? Please explain the circumstances that led to the problem.

Plaintiff has life threatening medical conditions to which the Utah Department of Corrections is Deliberately indifferent. Plaintiff seeks effective medical attention and care to alleviate the constant risk of serious permanent injury &/or death.

7. Name of Fifth Defendant Nancy Howard

is a citizen of Draper Utah

is employed as Critical Care Nurse at Utah State Prison

Defendant Howard was acting under the authority or color of state law and is responsible for the care and well being of inmates with serious medical conditions.

8. Name of Sixth Defendant Jon H. Huntsman Jr.

is a citizen of Salt Lake City Utah

is employed as Governor at Utah State Capitol

Defendant Huntsman was acting under authority or color of law and is responsible for the administration and operation of the Utah department of corrections and the health and safety of all inmates detained by the department of corrections.

Governor Huntsman is directly involved through letters and emails from plaintiff and plaintiff's family to him. (See exhibit 2)

9. Name of Seventh Defendant Jack Ford

is a citizen of Draper Utah

is employed as Director of Public Affairs at the Utah State Prison.

Defendant Ford was acting under authority or color of law and is responsible for addressing and resolving disputes involving Utah State Prison Staff and the public.

Defendant Ford is directly involved through disputes with plaintiff's family. (See exhibit 3)

10. Name of Eighth defendant Gerald Dearing

is a citizen of Draper Utah

is employed as physician's assistant at Utah State Prison

Defendant Dearing was acting under authority or color of law and is responsible for diagnosis, treatment, and care of inmates at the Utah State Prison.

11. Name of Ninth Defendant Steven Turley

is a citizen of Draper Utah

is employed as Warden at Utah State Prison

Defendant Turley was acting under authority or color of law and is responsible for all operations at the Utah State Prison including the care and safety of the inmates.

12. Name of Tenth Defendant Art Adcock

is a citizen of Draper Utah

is employed as Registered Nurse at Utah State Prison

Defendant Adcock was acting under authority or color of law and is responsible for facilitating and resolving grievances submitted by inmates

13. Name of Eleventh Defendant Billie Casper

is a citizen of Draper Utah

is employed as Grievance Coordinator at the Utah State Prison

Defendant Casper was acting under authority or color of law and is responsible for facilitating the resolution of grievances filed by inmates.

14. Name of Twelfth Defendant Tom Anderson

is a citizen of Draper Utah

is employed as Grievance Coordinator at the Utah State Prison

Defendant Anderson was acting under authority or color of law and is responsible for facilitating the resolution of grievances filed by inmates.

15. Name of thirteenth defendant Officer Jensen

is a citizen of Draper Utah

is employed as security officer at Utah State Prison infirmary

Defendant Jensen is employed as an officer at the U.S.P. infirmary and was acting under authority or color of law. Defendant Jensen is responsible for facilitating the provision of medical care to inmates.

16 Name of fourteenth defendant Officer Shebelske
is a citizen of Draper Utah
is employed as security officer at the
Utah State Prison infirmary
Defendant Shebelske was acting under
authority or color of law and is responsible
for facilitating the provision of medical
care to inmates.

17 Name of fifteenth defendant Carmen
is a citizen of Draper Utah
is employed as medical technician at the
Utah State Prison

Defendant Carmen was acting under
authority or color of law and is responsible
for dispensing of medications to inmates.

18 Name of Sixteenth Defendant John, Jane Does 1-50
are citizens of Draper Utah
Additional defendants will be named as
the information becomes available to the
Plaintiff and the Court.

C. CAUSE OF ACTION

1: I allege that my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary you may attach additional pages)

a. (1) Count I: 8th Amendment - Deliberate Indifference
to serious medical needs

(2) Supporting Facts: (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing legal authority or arguments.)
See attached pages

b. (1) Count II: _____

(2) Supporting Facts: _____

c. (1) Count III: _____

C. Cause of Action

1.

A (1) Count I: 8th Amendment Deliberate Indifference to serious medical needs.

(2) supporting facts: Plaintiff's medical condition was known to Utah State Prison medical staff upon his arrival to the prison (medical records arrived with plaintiff from Salt Lake County Jail) Utah State Prison medical staff discontinued medication and effective treatment of Plaintiff's medical condition endangering his life. Repeated pleas for remedy were denied even after Prison medical staff sent plaintiff to University of Utah Medical Center who sent back recommendations and a report of consultation from a physician specializing in Plaintiff's medical condition.

B (1) Count II: 1st Amendment violation through impairment of access to the courts

(2) supporting facts: At each level of the grievance process defendants Adcock, Casper, and Anderson have misrepresented issues and facts and have made assertions that are fraudulent or patently false. Such conduct is aimed at impeding, interfering with and impairing access to the courts.

C (1) Count III : Violations of 8th Amendment through threats, retaliation and punishment

(2) Supporting facts: Prison security staff (defendants officer Shebelske and Captain Darbro), executive director Tom Patterson, Doctor Gerten, Doctor Roberts, Doctor Tubbs and Nancy Howard have each either threatened, retaliated against or punished Plaintiff for Plaintiff attempting to get the effective medical treatment he needs for his serious medical conditions.

On September 9, 2007 Plaintiff went to the infirmary where Plaintiff asked medical technician Carmen to prepare a syringe of insulin. Plaintiff requested five units of insulin and Defendant Carmen handed Plaintiff a syringe she had prepared that had twenty units in it, eight of which were air. Plaintiff noticed the discrepancy and adjusted the syringe to hold five units of insulin and no air before injecting himself

(See Count IV)

On September 12, 2007 as Plaintiff was leaving the infirmary officer Shebelske stated to Plaintiff "Medical will try to be sneaky about how they do it, but I'll come right out and say it. We are going to kill you."

Plaintiff went to the Offender Management Review on September 13, 2007 where Plaintiff wanted to discuss his medical care and treatment.

Defendant Captain Darbro stated to Plaintiff "You have no rights in this prison and we will house you anywhere we want to whether it be Gunnison, A county jail or maximum security and there is nothing you can do about anything. We can do whatever we want to you or with you."

Also on September 13, 2007 Plaintiff met with Defendant Nancy Howard who stated that Plaintiff would be moved to a special needs unit which currently houses Plaintiff with mentally ill inmates when Plaintiff is not mentally ill. This change of housing has aggravated his medical condition.

(See attached letter of Dr James Chamberlain) ex 1
Defendants Garden, Roberts, and Tubbs concurred in the decision to move Plaintiff to the special needs unit. Also, Defendants Garden, Roberts, and Tubbs have taken away Plaintiff's glucometer which is necessary for proper management of Plaintiff's medical condition.

On approximately July 25, 2007 Plaintiff met with Defendant Roberts

to ask about getting the effective medical treatment which had been recommended by the Prison's consultant endocrinologist, Dr James Chamberlain, on June 1st 2007.

Defendant Roberts denied plaintiff such treatment and threatened to move Plaintiff into the infirmary or into maximum security.

Plaintiff's mother attempted to contact Defendants Patterson and Ford to assist Plaintiff in getting proper and effective medical treatment.

(See attached letters of discussions between Plaintiff's mother and Defendants Patterson and Ford) exhibits 3 and 4

Defendants Gorden, Roberts, Tubbs, Howard, Ford, and Patterson have moved Plaintiff to special needs unit and taken away Plaintiff's glucometer which has aggravated his serious medical condition.

Plaintiff's meals are not equally spaced throughout the day and Plaintiff takes Humalog insulin with each meal which is the fastest acting insulin available and necessary to maintain control over Plaintiff's diabetic condition.

If meals are not equally spaced and a diabetic is taking humalog, it puts the diabetic at greater risk of hypo or hyper-glycemia either of which can cause coma and/or death.

D (1) Count IV: Aggravated Premeditated attempted murder

(2) Supporting facts: On September 9, 2007 Plaintiff went to the infirmary to get his insulin injection. Plaintiff asked defendant medical technician Carmen to prepare a syringe with five units of insulin.

Defendant Carmen prepared a syringe which she handed to the Plaintiff. Plaintiff noted that there appeared to be twenty units of insulin in the syringe, four times the amount that had been asked for. Plaintiff told the defendant that he would adjust it to hold only the five requested units.

Plaintiff held the syringe in front of himself and began to depress the plunger of the syringe to expel the extra insulin. Plaintiff noted that no insulin came from the syringe until the plunger was at twelve. There had been eight units of air in the syringe on top of the twelve units of insulin. This was still seven more units than Plaintiff had asked for.

Plaintiff corrected the discrepancy to where the syringe held five units of insulin and no air before injecting himself.

If Plaintiff would have injected himself

with the syringe as it had been given to him it would have caused at least one if not all of the following things: Severe hypoglycemia, Seizure, coma, heart attack, stroke and/or death.

E (1) Count V: 8th Amendment violation through Deliberate Indifference

(2) Supporting facts: Plaintiff was incarcerated at the Salt Lake County Jail from May 10, 2006 until April 4, 2007. On April 4, 2007 Plaintiff was transferred and sentenced to the Utah State Prison. During Plaintiff's detainment at the County Jail Plaintiff developed an elevated potassium level. This was known to Utah State Prison medical staff upon Plaintiff's arrival to the prison because Plaintiff's medical records came with him from the jail. Defendants Gander, Roberts and Tubbs did not address Plaintiff's potassium level with proper medication or proper diet resulting in Plaintiff developing an arrhythmia in his heart beat due to the elevated potassium level. This was first diagnosed on July 17, 2007 and later confirmed by University of Utah medical center on October 2, 2007.

F (1) Count VI: 8th amendment violation through
Deliberate Indifference

(2) Supporting Facts: Plaintiff arrived at prison on April 4, 2007 and had an intake screening physical where plaintiff told medical staff the medications and doses he was taking. This was confirmed by Plaintiff's medical records which arrived with him from the county jail. Prison medical staff (Defendants Garden, Roberts, and Tubbs) did not get necessary medications to Plaintiff for sixteen days. These included blood pressure, cholesterol, kidney and thyroid medications.

(2) Supporting Facts: _____

D. INJURY

1. How have you been injured by the actions of the defendant(s)?

See Attached

E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Have you filed other lawsuits in state or federal court that deal with the same facts that are involved in this action or otherwise relate to the conditions of your imprisonment? YES / NO ~~X~~. If your answer is "YES," describe each lawsuit. (If there is more than one lawsuit, describe additional lawsuits on additional separate pages, using the same outline.)

a. Parties to previous lawsuit:

Plaintiff(s): N/A

Defendant(s): N/A

b. Name of court and case or docket number: N/A

D. Injury

1. Defendants actions to discontinue effective and necessary medications of Plaintiff caused Plaintiff's blood sugar levels to run extremely out of range from April 4, 2007 until August 12, 2007. (see Attached Sugar Logs) Exhibit 5

Plaintiff already has diabetic complications (kidney damage, visual impairment) and unstable blood sugar levels contribute to and cause further complications.

(see attached letters of Dr. Ryan Brady) Ex 6

Due to the Defendants failure to assist Plaintiff in effective care of his diabetic condition, such blood glucose levels have most certainly done damage to Plaintiff's vital organs and furthered Plaintiff's risk of additional complications.

Defendants also neglected Plaintiff in Plaintiff's dietary needs upon Plaintiff's arrival to prison. Plaintiff arrived with an elevated potassium level which was not addressed with medication or diet until the end of July 2007. The untreated level of elevated potassium caused an arrhythmia to develop in Plaintiff's heartbeat which was diagnosed by prison medical staff on July 17, 2007 and later confirmed by University of Utah medical staff on October 2, 2007.

c. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) N/A

d. Issues raised: N/A

e. When did you file the lawsuit? N/A

Date Month Year

f. When was it (will it be) decided? N/A

2. Have you previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part C? YES / NO . If your answer is "YES" briefly describe how relief was sought and the results. If your answer is "NO" explain why administrative relief was not sought.

I have completed all three levels of the
prison's Grievance process to no avail
(see attached) EXHIBIT 7

F. REQUEST FOR RELIEF

1. I believe that I am entitled to the following relief:

See attached

F. Request for Relief

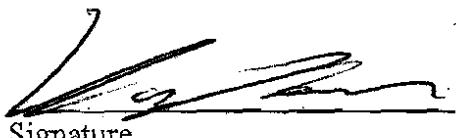
1. The state insures each employee for one million dollars per individual per incident. I ask only one quarter of one million dollars per individual per count for the times my blood sugars were in a dangerous or potentially fatal range and for the physical injuries I have sustained.

I also ask for punitive damages, damages for mental suffering and anguish and monies for future medical needs that result from the lapse of care during my incarceration.

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint, and that the information contained therein is true and correct. 28 U.S.C. §1746; 18 U.S.C. §1621.

Executed at Utah State Prison on October 3 2007
(Location) (Date)

A handwritten signature in black ink, appearing to read "L. J. [illegible]".

Signature